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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,051	04/17/2001	Shin Iima	450100-03137	5971

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NEW YORK, NY 10151

EXAMINER

TRINH, SONNY

ART UNIT	PAPER NUMBER
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2685

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DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/836,051

Applicant(s)

IIMA ET AL.

Examiner

Sonny TRINH

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 April 2001.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-5 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 1, 3** are rejected under 35 U.S.C. 102(e) as being anticipated by Kim ("Kim"; U.S. Patent Number 6,681,120).

Regarding **claim 1**, with reference to figures 1, 3 and descriptions, Kim discloses a portable communication apparatus (100), comprising:

a communication means for making a call (column 1 line 46 to column 2 line 9, abstract) and receiving an audio signal distributed from a server by a digital wireless system (column 1, specifically lines 8-29, claims 1,11, 18-20),

a recording means for recording the audio signal received by the communication means, a reproduction means for reproducing the audio signal read from the recording means, and an output means for output in accordance with the reproduced audio signal (column 1, specifically lines 8-29, claims 1,11, 18-20).

Regarding **claim 3**, Kim further teaches that the recording means is inserted in the portable communication apparatus in a removable manner (figures 1-2, see descriptions).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 2, 4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim ("Kim"; U.S. Patent Number 6,681,120) in view of Adams ("Adams"; U.S. Patent Number 6,594,366).

Regarding **claim 2**, Kim discloses the invention but does not disclose that the reproduction means is able to perform stereo reproduction of the audio signal read from the recording means, and the output means performs stereo output in response to the audio signal.

In an analogous art, Adams teaches a headset/radio auto sensing jack for use with a mobile terminal (figure 1). Adams further teaches that the reproduction means is able to perform stereo reproduction and the output means performs stereo output in response to the audio signal (figure 3, see description, see column 1 lines 43-67, column 2).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to incorporate the stereo reproduction, as taught by Adams, to the mobile entertainment and communication device of Kim, in order to provide stereophonic output for the enjoyment of the listener (attractive, easier to sell than a mono-aural output).

Regarding **claim 4**, Adams further teaches the output means outputs the stereo reproduced audio signal from a connection terminal to which a stereo headphone may be connected (figures 1, 3).

3. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim ("Kim"; U.S. Patent Number 6,681,120) in view of Fong et al. ("Fong"; U.S. Patent Number 6,493,328).

Regarding **claim 5**, with reference to figures 1, 3 and descriptions, Kim discloses a communication means for making a call (100), comprising:

a recording means for recording audio data file received by the communication means, a reproduction means for restoring an audio signal from the audio data read from the recording means and reproducing the restored audio signal, and an output means for output in accordance with the reproduced audio signal (abstract, columns 1-3).

However, Kim does not disclose that the file is a streaming file distributed from a server by a digital wireless system.

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In an analogous art, Fong teaches a high data active set of base stations services high data rate forward link transmissions for a mobile station. Fong further teaches the streaming of audio to the mobile radiotelephone (column 2 line 66 to column 3 line 5, column 8 lines 4-14).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to incorporate the streaming of audio, as taught by Fong, to the mobile entertainment and communication device of Kim, in order to provide high speed download and the ability to allow the user to listen to the music while its being downloaded.

### **Conclusion**

***Any response to this action should be mailed to:***

*Commissioner of Patents and Trademarks*

*Washington, D.C. 20231*

***or faxed to:***

*(703) 872-9306, (for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")*

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, 6<sup>th</sup> Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonny Trinh whose telephone number is (703) 305-1961. The examiner can normally be reached Monday through Thursdays from 7:00 am to 4:00 p.m., and on alternate Fridays.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377.

*Sonny Trinh*

Patent Examiner  
3/1/04

  
**SONNY TRINH**  
**PATENT EXAMINER**